



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 2 June 2014

10150/14

**GENVAL 35
COPEN 162
EJN 59
EUROJUST 102**

NOTE

from: Cyprus delegation
to: Delegations

No. prev. doc.: 14135/2/07 REV 2 CRIMORG 155 COPEN 141 EJN 28 EUROJUST 53

Subject: Evaluation report on the fourth round of Mutual Evaluations on the practical application of the European Arrest Warrant and corresponding surrender procedures between Member States
- Follow-up to Report on Cyprus

This progress report follows up the recommendations formulated in the evaluation report on Cyprus regarding the fourth round of mutual evaluations on the practical application of the European Arrest Warrant and corresponding surrender procedures between Member States. (doc. 14135/2/07 REV 2).

Fourth round of evaluations on the practical implementation of the Council Framework

Decision on the European Arrest Warrant

I wish to refer to the General Secretariat letter dated 29/06/2011 on the above subject and offer once again the apologies of the authorities of Cyprus for this late response.

Further to my letter dated 12/12/2011 on the developments in Cyprus, please be informed that a new Law (Law 30(I)/2014), that incorporates the old and the new amendments which have been necessitated for compliance with the Recommendations, has been approved and enacted by the House of Representatives.

As regards specifically each of the Recommendations included in the Evaluation Report, kindly note the following:

Recommendation 1: - To amend the Constitution In order to abolish the limitation on the surrender of nationals.

Law No. 68(I)/2013 has been enacted whereby the relevant Article of the Constitution (Article 11) was amended, in order to abolish the limitation on the surrender of nationals. In this respect, the Republic of Cyprus fully complies with the obligations arising from the European Union acquis and in particular, the Council Framework Decision 222/584/JHA.

Recommendation 2: - To ensure that the police investigator is fully informed of the criteria applied by the Attorney General to authorize the issuing of an EAW, possibly through written guidelines of the Attorney General.

In the course of their official on-going training, police investigators are trained by the Attorney General regarding the criteria applied. Furthermore, relevant circulars are issued in this respect.

Recommendation 3: - To ensure simplification of the procedures, for example by reconsidering the need for the police investigator to go repeatedly before the Attorney General before presenting a draft EAW to the District Judge.

In the course of the close cooperation between the Attorney General and the police, there is an open discussion on simplification of the procedures followed, taking into consideration, on the one hand, the importance of the quality and accuracy of the information required and on the other hand, certain limiting factors such as shortage of staff, increase of the workload (no. of cases) etc.

Recommendation 4: - To initiate discussions at national level, especially among the judiciary, on the best way to allow a more active role in practice for the District Judge, for example with regards to additional requests for information sent by the executing authority.

The issue was discussed thoroughly with the judicial authorities. For the time being the CA will continue its administrative supporting role.

Recommendation 5: - To consider setting up a working group at national level, composed of representatives of all authorities involved (including the Attorney General, the C.A, the Police and the Judges) which would meet regularly in order to discuss general EAW issues and which could draft general guidelines on EAW procedures.

A working group, comprising of representatives of the competent authorities, functions on an ad hoc basis to discuss issues arising from the application of the Law.

Recommendation 6: - To increase standardization of procedures, through appropriate Training as well as specific guidelines, among the lawyers in the section dealing with the EAW and extradition at the office of the Attorney General.

The section dealing with EAW and extradition at the office of the Attorney General is headed by an Attorney. This, along with the guidelines issued by the head of the section, as well as relevant on the job training, increases standardization of the procedures followed.

Recommendation 7: - To increase training measures focusing on EAW procedures, especially among the judiciary.

Judges are constantly informed about decisions of the Supreme Court, as well as of foreign courts, regarding EAW. Also, relevant EU informative materials regarding EAW procedures are distributed among Judges. Finally, judges participate in seminars organized by E.U. Institutions on EAW.

Recommendation 8: - To enhance the coordination offered by Eurojust especially where the cooperation with a specific Member State proves to be difficult, and to consider the opportunity of sending to the national member of Eurojust a copy of all EAW's issued by Cyprus.

Copy of EAW's issued are sent to the national member of Eurojust, on an ad hoc basis, in cases where the cooperation with a specific member state proves to be difficult.

Recommendation 9: - To consider limiting the role of the CA to the administrative receipt of EAW's and leave checking of EAW's to the executing judicial authority.

Checking of EAW's is left to the executing judicial authority. This is accomplished by the enactment of the aforementioned Law (Law 30(I)/2014). (see also Recommendation 10).

Recommendation 10: - To amend the legislation in so far as it requires a certificate issued by the CA and in the meantime, to consider whether such a requirement may be abolished in practice based on the fact that it does not comply with E.U. legislation.

The aforementioned Law (Law 30(I)/2014), abolishes the requirement for a certificate to be issued by the CA.

Recommendation 11: - To enable all law enforcement authorities to access the STOP-LIST database directly.

All law enforcement authorities have been given access to STOP-LIST. MOKAS has a direct access to STOP-LIST, while customs have access to the system as regards the names of the persons listed on the STOP-LIST but not the reasons behind it.

Recommendation 12: - To merge the Sirene Bureau with the Europol National Unit and Interpol Nicosia.

All three units have been merged and operate under the International Police Subdirectorates, since October 2006.

Recommendation 13: - In the context of the future connection of Cyprus to the SIS, to amend the EAW Law to insert a provision indicating that the judicial authority which has refused the execution of an EAW may require that a flag be added regarding the relevant SIS alert in order to prevent the arrest of the person of the same acts.

Recommendation 13 will be considered further in the course of the future connection of Cyprus to the SIS.

Recommendation 14: - To ensure that the Sirene Bureau, for tasks related to the EAW, especially regarding the issue of flagging, is given the support of legal advice by an independent authority, either a judicial authority or the Attorney General.

Officers at the Attorney General's Office are on call on a 24 hours basis and the Sirene Bureau can contact them for any assistance needed.

Recommendation 15: To create a clear legal basis allowing for the immediate detention of a person mentioned in the STOP-LIST on the basis of an EAW

See Recommendation 16 below.

Recommendation 16: - To amend the EAW Law in so far as it requires a domestic arrest warrant.

The aforementioned Law (Law 30(I)/2014), abolishes the requirement for a domestic arrest warrant. Law 68(I)/2013 had already amended Article 11 of the Constitution on this point, i.e. by providing for the EAW as a direct legal basis for arrest. In this respect, both recommendations 15 and 16 are fully complied with.

Recommendation 18: - To finalize the discussion, currently taking Place in Parliament, of the legislation amending the EAW Law and to consider adding new amendments suggested in this report.

The aforementioned Law (Law 30(I)/2014), incorporates the old and new amendments which have been necessitated in compliance with the Recommendations.

Recommendation 19: - To amend the EAW Law to make it clear that the Police must bring the arrested person before the District Judge as soon as possible and in any case within 24 hours.

The aforementioned Law (Law 30(I)/2014), amends the relevant provision, in line with the constitutional provisions that provide as above.

Recommendation 20: - To consider making the declaration mentioned in Article 35(2) of the EU Treaty enabling Cypriot Court, to submit a request for preliminary ruling to the ECJ regarding the interpretation of instruments adopted in the framework of Title VI at the EU Treaty, including Framework Decisions.

By an amendment of the Courts Law (Law 119(I)/2008), the recommendation was fulfilled. The Declaration was made subsequently.

Further to the above, please find enclosed herewith, copies of the aforementioned Laws, in the Greek Language. Translation of the Laws into the English language will be provided in due course.

Yours sincerely

Permanent Representative
of Cyprus to the European Union